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2
3 WHATCOM COUNTY COUNCIL
4 **Regular County Council**

5
6 April 13, 2010
7
8

9 **CALL TO ORDER**

10
11 Council Chair Sam Crawford called the meeting to order at 7:00 p.m. in the Council
12 Chambers, 311 Grand Avenue, Bellingham, Washington.
13

14
15 **ROLL CALL**

16
17 **Present:** Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy
18 Kershner, L. Ward Nelson and Carl Weimer.
19 **Absent:** None.
20

21
22 **FLAG SALUTE**

23
24
25 **ANNOUNCEMENTS**

26
27 **DISCUSSION REGARDING THE PROPOSED ORDINANCE AMENDING**
28 **WHATCOM COUNTY CODE 2.02, COUNTY COUNCIL (AB2010-143A)**

29 - And -

30 **DISCUSSION REGARDING THE PROPOSED ORDINANCE AMENDING**
31 **WHATCOM COUNTY CODE 2.03, BOARDS AND COMMISSIONS (AB2010-**
32 **143B)**
33

34 Crawford reported for the Committee of the Whole and stated these items are still
35 works in progress.
36

37
38 **SPECIAL PRESENTATION**

39
40 **1. QUARTERLY REPORT FROM THE BEHAVIORAL HEALTH REVIEW ADVISORY**
41 **COMMITTEE (AB2010-017)**
42

43 Jack Hovenier, Behavioral Health Review Advisory Committee Chair, stated this
44 committee was formerly known as the One-Tenth Sales Tax for Behavioral Health, Criminal
45 Health, and Substance Abuse. He referenced and read from the memos submitted to the
46 Council (*on file*) and presented to the Council about the Behavioral Health Advisory
47 Committee. He has concerns about government administering these programs. However,
48 these dollars are well-spent. The money they invest in these programs is more than made
49 up for to the community. Prevention is less expensive to the taxpayers than housing people
50 in jail. He's frustrated that so much money goes to administrative costs, however he has
51 some conception of the necessity of it. As a fiscal conservative and social liberal, he's
52 happy overall with this program, given the constraints they have to work with. He's happy
53 that much of the money went to schools. The money is being supervised.

1
2 Brenner stated she is reassured by Mr. Hovenier's comments. She didn't vote for the
3 tax because the programs are too important for a specialty tax. She likes the name change.
4 She has faith in what they're doing. The vote to pass the tax was just before budget
5 discussions, and she would have preferred to go through the budget first, and then consider
6 other options if there were more needs.
7

8 Nelson stated he also didn't vote for the tax because there weren't any programs.
9 The Advisory Committee has done a marvelous job developing a comprehensive program.
10 He asked if the program reaches out to those who fall through the cracks. Many people
11 need services. He asked how they approach that, besides triage.
12

13 Anne Deacon, Health Department, stated the Committee made that a top priority.
14 They conducted a community-wide needs assessment to identify gaps in service and
15 develop programs and services to ensure those gaps were filled as much as possible. They
16 established a continuum of care for citizens.
17

18 Nelson stated he would like information on how that's being done and funded.
19 Deacon stated they use other funds besides the sales tax funds, so they build an
20 infrastructure rather than boutique programs.
21

22 Crawford asked about studying the ten most expensive jail inmates. Hovenier stated
23 the top ten consumers were consuming an exorbitant number of resources. They discussed
24 intervening here to help the community and take pressure off the system as a whole.
25

26 Crawford asked about the administrative overhead for the schools program.
27 Hovenier stated it's frustrating that writing a check to the schools incurs the same indirect
28 cost as any other County expense. However, they need to hold that line to be consistent
29 countywide. He's frustrated that it takes \$1.15 to spend one dollar.
30

31 **OPEN SESSION**

32
33
34 The following people spoke:

- 35 • Fred Rinard, 3854 Cabrant Road, Everson, spoke about septic tanks.
- 36 • *(Clerk's Note: The speaker following Fred Rinard requested that his/her*
37 *testimony not be included in the minutes.)*
- 38 • Shane Roth, 3925 E. Connecticut Street, Bellingham, spoke about the Ethics
39 Committee's decision on a claim that Councilmember Nelson violated the
40 Code of Ethics.
- 41 • Dan Pike, Bellingham Mayor, spoke about the urban growth area (UGA)
42 boundaries for Bellingham, growth rates, and Caitac.
- 43 • Bruce Diele, citizen, spoke on the topic of marijuana reform.
- 44 • Mike Gleason, 4761 Mosquito Lake Road, spoke about E-Verify.
- 45 • Cathy Lehman, Futurewise, spoke about the UGA settlement conference and
46 UGA boundaries.
- 47 • Renata Mason, 5220 Matheson Lane, spoke about UGA boundaries in
48 Bellingham.
- 49 • Bob Weisen, 3314 Douglas Road, Ferndale, spoke about UGA boundaries.
- 50 • Clayton Petree, Bellingham, spoke about the UGA settlement conference and
51 growth rates.
52
53

1 **PUBLIC HEARINGS**

2
3 **1. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE**
4 **OF NEW APPLICATIONS FOR WIND ENERGY SYSTEMS (WES) GREATER**
5 **THAN 500 KILOWATTS, OR MULTIPLE WES PER PARCEL WITH A**
6 **CUMULATIVE RATED OUTPUT ABOVE 100 KILOWATTS (AB2010-116A)**
7

8 Crawford opened the public hearing and the following people spoke:
9

10 Terry Meyer, 2682 Donovan Avenue, Bellingham, stated he started Cascade
11 Community Wind in 2009 with home equity line of credit and small investors. It takes a lot
12 of effort to get to the permit application stage. He has played by the rules, and incurred
13 \$85,000 in costs related to projects in Whatcom County. His business risk was based on a
14 clear and defined permitting path. If this moratorium is indefinite, he can't risk any more
15 time or money. This ordinance is an all-out ban on wind energy in Whatcom County. It will
16 end his business, he will lose his equity, and farmers and landowners will lose a stable
17 income from harnessing wind energy on their property. Drop the moratorium and consider
18 amendments to the existing ordinance through the normal process.
19

20 Geoff Middaugh, 206 Highland Drive, stated he works with Cascade Community
21 Wind. Reject the moratorium. Wind energy has economic benefits of creating jobs and
22 taxes. The local economic impact from projects over the next few years includes 24 jobs
23 and an increase in annual economic activity of up to \$4 million, including \$360,000 in
24 potential tax revenues. Reject the delays of an interim moratorium.
25

26 Scott Sanderson, 816 20th Street, Bellingham, stated he supports Terry Meyer and
27 Cascade Community Wind. Alternative energy is vital to their future. The moratorium is a
28 blow to the momentum they've achieved in their effort to move Whatcom County forward in
29 the field of sustainability. They want to encourage renewable energy businesses to join the
30 community.
31

32 Abe Jacobson, 2314 Samish Way, Bellingham, submitted and read from his
33 testimony (*on file*). The wind energy system (WES) interim ordinance lacks defensible
34 technical assessment and unjustifiably punishes entrepreneurs who can contribute to the
35 county's economic development.
36

37 Michelle Evans, 3899 Isaacson Road, submitted and read from her handout (*on file*).
38 She supports the moratorium. Proceed cautiously with wind energy systems, in a manner
39 that ensures human health.
40

41 Margaret Mawson, 3903 Isaacson Road, stated she supports the moratorium. The
42 issue is complex. Other ordinances around the country are lengthy, with a lot of provisions
43 for wildlife, exclusion zones in sensitive areas, wind studies, fencing, communication
44 interference, noise complaints, and government monitoring. Sound levels are above what is
45 safe for children. Create a strong regulatory framework for industrial wind projects to avoid
46 damages to health, the environment, and the greater community.
47

48 John Bosche, 6571 Lunde Road, Everson, submitted and read from his testimony (*on*
49 *file*). He is against the moratorium. He is an expert in wind energy, and described his
50 background. Information submitted to the Council from the Squaticum Mountain Association
51 seemed to mostly be printed from the internet. Be cautious about what they read. He is
52 available to provide accurate information to Council.
53

1 Alex Ramel, 2308 Woburn Street, submitted and read from his testimony (*on file*).
2 Create an additional setback for residential areas and an aesthetic buffer. Science hasn't
3 shown a link to health and safety problems. A setback range of one to two times the tower
4 height is what other communities in the United States are doing. Adopt a solution now.
5

6 Mike Neelley, 2604 Donovan Avenue, Bellingham, stated he opposes the
7 moratorium. Do the work to drop the moratorium and make wind energy possible in
8 Whatcom County.
9

10 Leslie Jacobsen, 2065 Squalicum Mountain Road, stated she supports the
11 moratorium until the Council makes a thorough, measured, and reasonable decision that
12 doesn't compromise quality of life. There are precedents for setbacks. She would like to
13 see wind energy in Whatcom County, but it must be safe. Siting and quality of life are the
14 issues.
15

16 Carey Kaufman, 2065 Squalicum Mountain Road, stated he is a cancer specialist and
17 knows how to do research. He did research on this issue. The issue is the safety of the
18 community. He supports the moratorium until the ordinance can be written right. The
19 current ordinance is flawed. Mr. Meyer can run his business once the ordinance is
20 appropriate.
21

22 Matt Gagnte, Portland, Oregon, stated he graduated from Western Washington
23 University and is a geographic information system analyst. He has worked with Mr. Meyer.
24 He described his background. Any wind farm built in Whatcom County will have to go
25 through steps to mitigate concerns, regardless of the ordinance. Drop the moratorium. The
26 ordinance that exists is sufficient.
27

28 Crawford stated a challenge is that they're stretching County staff resources on
29 many issues. It would really help this Council if someone superimposed layers on the
30 County zoning map to show what the various setbacks would look like. Include the ones not
31 on Mr. Ramel's list. They are concerned about how long it will take for the County to get to
32 this issue, and it seems many have a vested financial interest. The Council and residents
33 would benefit if they could see what setbacks look like on a map, and the Council could
34 move forward on specific proposals.
35

36 Carol Butz, 2658 Donovan Avenue, Bellingham, stated she is an investor in Terry
37 Meyer's business. Before she invested in one of Mr. Meyer's projects, she read the County
38 ordinance and looked at his integrity. Mr. Meyer is creatively serving the community. The
39 ordinance's conditional use permit allocations gives the County much discretion in creating
40 additional constraints and considering abutting properties. She supports the existing
41 ordinance.
42

43 Hearing no one else, Crawford closed the public hearing.
44

45 ***Nelson moved*** to adopt the ordinance.
46

47 ***Mann*** stated he would likely vote against this anyway, but he has a motion that may
48 work better. He ***moved*** to amend the ordinance, "NOW THEREFORE BE IT ORDAINED by
49 the Whatcom County Council...above 100 kilowatts **within 1,500 feet of residential**
50 **development**, unless the applications were complete...."
51

1 **Crawford suggested a friendly amendment**, "NOW THEREFORE BE IT ORDAINED
2 by the Whatcom County Council...above 100 kilowatts **within 1,500 feet of any residential**
3 **parcel or any parcel where homes can be built**, unless the applications were complete...."

4
5 **Mann accepted** the friendly amendment.
6

7 Crawford stated an ordinance that addresses setbacks would require State
8 Environmental Policy Act (SEPA) review. The existing ordinance will soon expire. It's
9 unlikely they can pass an ordinance with a setback at this meeting. They may also need
10 findings for any setback.
11

12 David Stalheim, Planning and Development Services Department Director, stated
13 they could write the ordinance to say the County won't accept applications until they do the
14 full process.
15

16 Nelson stated the County could allow them to be located only in industrial or
17 commercial forestry zones, where there is no residential.
18

19 **Mann withdrew** his motion.
20

21 **Nelson moved** to amend the ordinance, "NOW THEREFORE BE IT ORDAINED by the
22 Whatcom County Council...above 100 kilowatts, unless the applications were
23 complete...effective date of this ordinance **or are located in an industrial or commercial**
24 **forestry zone.**" This ordinance provides an exemption by applications completed prior to
25 this ordinance. Another alternative is to allow applications in commercial forestry zones and
26 industrial zones.
27

28 **Brenner** stated she spent many hours working on this thing. She didn't have an
29 opportunity to read input from Mr. Ramel because she didn't get it. She contacted several
30 people about this. From her research, she found these and others up to distances more
31 than a mile. The average was a mile, which she felt was good for an interim ordinance.
32 She's disappointed that it's being said they are banning all wind energy and alternative
33 energy in Whatcom County. This is for industrial wind energy systems. The impression was
34 left that they are banning all wind generators. They put an interim moratorium on industrial
35 sized wind generators until they could set reasonable setbacks. A setback of one mile to
36 any residential zoning is reasonable for an interim moratorium. She **moved** to amend the
37 ordinance, "NOW THEREFORE BE IT ORDAINED by the Whatcom County Council...above 100
38 kilowatts **within one mile of any residential parcel or any parcel where homes can be built**,
39 unless the applications were complete...." This is temporary until they figure out what
40 they're doing, as an interim. She doesn't intend for this to be an ongoing moratorium.
41

42 Crawford stated they've been given legal advice that the Council cannot do this
43 amendment without SEPA review.
44

45 **Nelson withdrew** his motion.
46

47 Brenner asked if they can approve her motion.
48

49 Crawford stated the Council has been told that it cannot do this motion.
50

51 **Brenner withdrew** her motion.
52

53 **Crawford** suggested:

- Adding a fifth finding of fact in the ordinance, "5. The siting of wind energy systems in heavy impact industrial and commercial forestry zones may cause noise impacts already associated with noise levels in those zones." The problem was with residential zoning on Squalicum Mountain with rural forestry nearby. The problem was the adjacency of that zoning boundary.
- Amending language, "NOW, THEREFORE, BE IT ORDAINED...above 100 kilowatts in the Rural Forestry and Agricultural zones, unless the applications were complete...."

Kershner asked if the existing emergency ordinance covers the problem on Squalicum Mountain or if they need to go forward. Stalheim stated the ordinance as previously drafted included a conditional use process, which requires a public hearing before the Hearing Examiner and SEPA review on the application. Any project would have to go through that full public process and environmental review. The issues should be vetted through that process, depending on the interest of the public. If the projects were not mitigated, the Hearing Examiner could deny the project.

Crawford stated projects before the Hearing Examiner depend on the arguments made. They folks are looking for assurances.

Mann stated he believes a case can be made for greater setbacks. However, the problem is the process of emergency moratoria and interim ordinances. They need to be predictable. He has no confidence that passing this ordinance will achieve anything they want. He can't find any doctor who thinks there are verifiable, substantial health risks, other than Nina Pierpont, who has not done any peer-reviewed studies. That doesn't mean there isn't annoyances caused by the systems. He's sensitive to that. He doesn't want to put anyone in the position of getting sick. Nothing submitted included information that was scientifically verifiable. There isn't an emergency. The conditional use permit process is in place. He would be content to let the emergency expire and continue to work on a permanent ordinance that is more coherent and realistic.

Brenner stated the conditional use permit still has to follow the specifics in place, including setbacks. They need to do certain things to protect the public. Create setbacks. The absence of science is not the absence of a problem. There isn't much data on it at all. Find a middle ground and set interim setbacks. Don't walk away from this.

Crawford moved to:

- Add a fifth finding of fact in the ordinance, "5. The siting of wind energy systems in heavy impact industrial and commercial forestry zones may create noise impacts already associated with noise levels in those zones."
- Amend language, "NOW, THEREFORE, BE IT ORDAINED...above 100 kilowatts in the Rural Forestry or Agricultural zones, unless the applications were complete...."

Nelson stated that in addition to evidence, the Council must consider the public's perception. They must get this right, or the Council Chambers will be filled with people.

Brenner stated health risks are possible when located close to people. Perception is important, but public health is more important.

Knutzen asked when Planning Department staff will develop a permanent ordinance. He will work with staff on a permanent ordinance.

1 Crawford stated the staff's workload is greater than the time available. This is a
2 matter of prioritization, as with everything else. The Council has responded to the
3 community. An option is to assemble a work group of citizens to develop an ordinance.
4 However, that would also require facilitation and coordination by staff.
5

6 Dewey Desler, Deputy Administrator, stated the County Conservation Resource
7 Analyst could work on recommendations to the Council.
8

9 Crawford stated include citizens who have already done preliminary research on the
10 issue.
11

12 The motion to amend carried by the following vote:

13 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen and Kershner (6)

14 **Nays:** Mann (1)
15

16 Weimer stated the amendments improve the ordinance, but he will still vote against
17 the ordinance. The Council didn't consider obvious issues regarding residential when it
18 brought this forward. Those were easy to fix by creating a buffer of 1,000 or 1,500 feet.
19 He thought this would be scheduled in committee, but it hasn't. He's concerned this will go
20 on and on, and they won't see the end of it. Let the emergency moratorium lapse. Go back
21 to the original ordinance. If this is really a concern, come up with a solution more quickly.
22 They still have the protections in place of conditional use, SEPA, the Hearing Examiner, and
23 others.
24

25 Brenner asked if the conditional use permit administrator can change specific
26 setbacks or other conditions that may be in the ordinance. Stalheim stated the only way
27 the Hearing Examiner can change any specifics in legislation is through a variance process.
28 If there are no setbacks, the Hearing Examiner has broader authority to make sure any
29 conditional use is compatible with the neighborhood, so he can increase the setbacks to
30 ensure compatibility. There are criteria for the Hearing Examiner, including consistency
31 with the Comprehensive Plan and neighborhood compatibility, that allows the Hearing
32 Examiner to increase setbacks, with findings to support the determination.
33

34 Brenner stated the criteria may be subjective. Stalheim stated they are broad
35 statements. The more specific the prescriptive standards in an ordinance, the easier is the
36 hearing process. The purpose of a conditional use process is to review uses that don't
37 normally fit in to the zone. The reason for the public hearing is to go through and resolve
38 these issues, with conditions.
39

40 Brenner asked if they'd be better off if they didn't specify setbacks, other than they
41 are to be determined in the conditional use permit. Stalheim stated that once they start
42 including setbacks into an ordinance, they begin to legislate what those setbacks should be.
43 They may limit the Hearing Examiner from increasing the setbacks.
44

45 Brenner asked if it would be harder for the Hearing Examiner to increase setbacks if
46 the Council eliminates the moratorium, go back to the 350-foot setback, and rely on the
47 conditional use permit. Stalheim stated the Hearing Examiner will have to live by that
48 setback, but may use other criteria within the conditional use permit section of the zoning
49 code, which includes neighborhood compatibility, consistency with the Comprehensive Plan,
50 and any authority under SEPA to mitigate adverse impacts. The Hearing Examiner has all
51 those tools available.
52

1 Brenner asked what happens if they create a larger setback and include language in
2 the ordinance that allows the Hearing Examiner to reduce the setback in the conditional use
3 permit if deemed appropriate. She asked if that will indicate that the Council is flexible.
4 Stalheim stated it's possible. They could discuss it further.
5

6 Brenner stated she would support the interim ordinance. She trusts the
7 administration to have this before the Council in a matter of weeks.
8

9 Kershner stated she is against extending the interim for reasons stated tonight.
10 Businesses deserve predictability and stability. The current ordinance would have taken
11 care of the problem brought forward when the Council adopted the emergency ordinance.
12 They do need to make some changes. They don't need to be forced into a position to make
13 them quickly, but she doesn't want to support a moratorium on this when they have a
14 current ordinance that would have taken care of the problem.
15

16 Crawford stated he will support this ordinance. His primary issue is building a 300-
17 foot tower next to his house. It is too close for comfort for many reasons, including
18 aesthetics and noise. The debate over whether it affects health will go on for a long time.
19 This deserves further work. Adopt a permanent ordinance with greater setbacks than what
20 is already provided. That makes good, common sense.
21

22 **Brenner** stated she is interested in making a setback soon. They may not need a
23 lot of help from Planning staff. She would like to establish a date certain in the ordinance
24 rather than extending it for six months. She **moved** to amend the ordinance, "BE IT
25 FURTHER ORDAINED...shall be effective for not longer than ~~six months~~ **six weeks** following
26 its effective date, **at which time a new ordinance shall be introduced** ~~but may be renewed~~
27 ~~for one or more six-month periods if subsequent public hearings are held and findings of~~
28 ~~fact are made prior to each renewal."~~
29

30 Crawford stated he is against the motion. It's not a matter of forcing anyone to do
31 something. It's a matter of whether they can work with the administration and get
32 something done. Also, it would be great for Councilmember Brenner to take on this project.
33 They don't have to keep this interim ordinance in effect for any length of time. It simply
34 sunsets after six months, unless they renew it.
35

36 Brenner stated they can get something in place and do SEPA review. She will
37 support the ordinance, but only until a date certain.
38

39 Knutzen asked what happens if they pass the ordinance with a six-month timeframe,
40 and then get another ordinance done in six weeks. They can just repeal this ordinance.
41

42 Crawford stated the Council can pass an ordinance whenever, as long as they do the
43 proper public notice.
44

45 The motion to amend carried by the following vote:

46 **Ayes:** Brenner, Weimer, Knutzen and Mann (4)

47 **Nays:** Kershner, Nelson and Crawford (3)
48

49 Mann asked to set a limit of eight weeks instead of six weeks.
50

51 **Brenner moved** to amend the ordinance, "BE IT FURTHER ORDAINED...shall be
52 effective for not longer than ~~six months~~ **eight weeks** following its effective date, **at which**
53 **time a new ordinance shall be introduced** ~~but may be renewed for one or more six-month~~

1 ~~periods if subsequent public hearings are held and findings of fact are made prior to each~~
2 ~~renewal."~~

3
4 The motion to amend carried by the following vote:

5 **Ayes:** Brenner, Weimer, Knutzen and Mann (4)

6 **Nays:** Kershner, Nelson and Crawford (3)

7
8 Crawford stated he will vote against the ordinance. This is an absolute mess, with
9 the time limitation. It's wrong.

10
11 The motion to adopt as amended failed by the following vote:

12 **Ayes:** Brenner, Knutzen and Mann (3)

13 **Nays:** Nelson, Crawford, Weimer and Kershner (4)

14
15 **Crawford moved** to adopt the ordinance as presented, with his amendment, and
16 without Councilmember Brenner's amendment.

17
18 Brenner stated she will support the ordinance, but they should make it known that
19 they intend to do this in a very timely manner. Adopt it with a timeframe much less than
20 six months.

21
22 The motion to adopt the ordinance with no amendments carried by the following
23 vote:

24 **Ayes:** Nelson, Crawford, Brenner and Knutzen (4)

25 **Nays:** Mann, Weimer and Kershner (3)

26
27 **2. ORDINANCE AMENDING THE WHATCOM COUNTY CODE, TITLE 20, TO**
28 **CLARIFY AND REVISE THE DEFINITION AND STANDARDS OF HOME**
29 **OCCUPATIONS (AB2010-047)**

30
31 Crawford opened the public hearing and the following person spoke:

32
33 Bob Weisen, 3314 Douglas Road, Ferndale, stated they did a good job on this. He
34 referenced page eight of the ordinance, line 24, and suggested that they specify two
35 fulltime equivalent (FTE) employees to section 20.84.150(2). He is concerned with saving
36 the older, classic barns. Typically, they were 40 feet by 60 feet, with two stories. Change
37 20.84.150(7)(1)(a) to 105,500 pounds for semi-trucks. Page ten, section 20.84.150(10),
38 isn't clear whether or not they allow telephone sales and e-commerce if it's not tied to
39 something from the property. There should be no reason why people aren't allowed a mail-
40 order, telephone, or e-commerce business unrelated to the property. Allow three-phase
41 electric engines in section 20.84.150(11).

42
43 Brenner asked if any barns built before 1975 could be bigger than 8,000 square feet.
44 Wiesen stated there are. His interest is making it easy for small people to get into business.
45 Also, it's expensive to restore these older buildings. It's a matter of scale, and how many
46 square feet someone needs.

47
48 Hearing no one else, Crawford closed the public hearing.

49
50 **Brenner moved** to refer to committee. She recalls a change the committee made
51 that isn't included in this version of the ordinance. The change was to section
52 20.84.150(4). Rural Residential (RR) and Rural Residential Island (RR-I) were not supposed

1 to be precluded from the 1,250 square foot building nor from having accessory structures
2 built before 1975.

3
4 Knutzen asked if the Council can make these changes tonight.

5
6 Brenner stated the Planning Committee made those changes.

7
8 Royce Buckingham, Prosecutor's Office, stated that if the changes were discussed
9 previously in the public forum, the public has reviewed the option, and the Council can
10 make the change. Others may disagree with his advice.

11
12 Crawford stated that according to past legal counsel, if it's a change in zoning that is
13 substantive, the problem is that the public have been notified they are limited to 500 square
14 feet. Now the Council is saying it wants to make a change to make the limit 1,250 square
15 feet. Buckingham stated there's not doubt that the change is substantive.

16
17 Crawford stated they don't need to send it back to committee, but they have to issue
18 another notice and have another public hearing.

19
20 **Brenner withdrew** her motion to refer to committee. She **moved** to amend
21 20.84.150(4), "In all zones except ~~RR, RR-1~~, EI, UR, URM, and URMX, home occupations...of
22 building floor area. In the ~~RR, RR-1~~, EI, UR, URM, and URMX zones home occupations shall
23 not exceed a total of 500 square feet of building floor area...." Rural residential will be very
24 rural soon. Rural Residential Island is five acres now. They both are considered rural, not
25 urban zoning. There will be many of those older barns in these zones that should be used.
26 People won't restore them without a reason. A home occupation is one reason to restore a
27 barn.

28
29 The motion carried by the following vote:

30 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

31 **Nays:** None (0)

32
33 **Knutzen moved** to amend 20.84.150(7)(1)(a), "...each of which shall not exceed
34 ~~60,000~~ **105,500** lbs. gvw, and which may include..."

35
36 Brenner stated these are allowed on property if someone owns one personally. She
37 asked how many people they're talking about.

38
39 Kershner stated she will support the motion, but this applies to small lots.

40
41 Dan Watkins, Lake Samish, stated a typical log truck, dump truck, or semi-truck has
42 a gross vehicle weight of 80,000 to 105,500 pounds in the state of Washington.

43
44 Crawford asked the length of a truck that weighs 105,500 pounds. Watkins stated it
45 is approximately 62 feet.

46
47 Knutzen stated the maximum trailer length allowed in Washington is 53 feet. The
48 length is approximately 72 feet.

49
50 Brenner stated screenings and setbacks seem to be more important than the
51 tonnage. She doesn't know why the weight is important.

1 Knutzen stated there are a few instances when a truck driver will drive the truck
2 home at night, and park it in the driveway. He would rather it be limited to one vehicle at
3 105,500 pounds.
4

5 Mann suggested that the combined weight for two vehicles could not exceed 125,500
6 pounds, which would allow a pickup truck and a big log truck.
7

8 Knutzen restated his motion to amend to amend 20.84.150(7)(1)(a), "...each of
9 which shall not exceed ~~60,000~~ 105,500 lbs. gvw, and which may include..."
10

11 The motion carried by the following vote:

12 **Ayes:** Nelson, Crawford, Brenner, Knutzen, Mann and Kershner (6)

13 **Nays:** Weimer (1)
14

15 **Brenner moved** to amend 20.84.150(4), "...in accessory structures built before
16 1975, home occupations shall not exceed a total of ~~8000~~ 6,500 square feet of building area.
17 In the EI, UR, URM, and URMX zones home occupations shall not exceed a total of 500
18 square feet of..."
19

20 Mann asked how Councilmember Brenner decided on the number of 6,500.
21

22 Brenner stated it is a compromise between 4,000 and 8,000.
23

24 Kershner stated the barn language isn't in the ordinance. It is simply about
25 accessory buildings prior to 1975. It could allow any building prior to 1975. It is confusing
26 to distinguish the threshold between a cottage industry and home occupation. She asked if
27 this language really meets Councilmember Brenner's expectations. Make it possible for
28 Planning Department enforcement staff to enforce the code without getting the two things
29 confused.
30

31 Brenner stated staff have aerial maps dating to 1975. That's the reason for the
32 date. It's correct that this includes buildings other than barns. Any big building is worth
33 saving, but especially barns. She's comfortable with the language.
34

35 Mann asked if a threshold of 2,500 instead of 8,000 square feet would be easier for
36 staff.
37

38 Wain Harrison, Planning and Development Services Department, stated a limit of
39 2,500 square feet is the threshold for cottage industry conditional use in all other
40 circumstances.
41

42 Mann stated he recalls that the 8,000 square feet limit was a holding number on
43 which they would hold the public hearing. He also recalls that a limit of 2,500 is much
44 easier for staff. Harrison stated a limit of 2,500 square feet would make the code easier to
45 administer and more consistent.
46

47 Crawford stated he will vote against the motion. He supports staff's direction. His
48 concern is that they need to be consistent in the scale of the businesses. It's inconsistent to
49 allow this one large structure out there that can be used in the smallest occupation, and
50 then not allow it otherwise. Unless they are really willing to parse out agricultural
51 structures and barns and their ages, the regulations will be inconsistent.
52

1 Brenner stated the purpose was to allow the use of existing buildings. They already
2 limit the number of people, which is what home occupations are about. It's not supposed to
3 be about what is easiest for staff. There are a bunch of illegal occupations in the county
4 because the County Planning staff is into the minutia. This is for restoration of older
5 buildings. If they don't find ways to protect these barns, they will lose them. Don't create a
6 one-size-fits-all regulation to be consistent. If the building already exists, and the same
7 amount of people work there, there is no impact.

8
9 Nelson asked if a person would still be allowed to use 2,500 square feet, if that were
10 the limit, of a larger barn. Harrison stated that would be allowed.

11
12 **Brenner** asked how that is easier for enforcement staff. That doesn't make sense.
13 She **withdrew** her motion to amend.

14
15 **Weimer moved** to amend 20.84.150(4), "...in accessory structures built before
16 1975, home occupations shall not exceed a total of ~~8000~~ 2,500 square feet of building area.
17 In the EI, UR, URM, and URMX zones home occupations shall not exceed a total of 500
18 square feet of...."

19
20 The motion carried by the following vote:

21 **Ayes:** Nelson, Crawford, Weimer, Mann and Kershner (5)

22 **Nays:** Brenner and Knutzen (2)

23
24 Nelson asked if a wind energy system (WES) could be a home occupation. They may
25 generate an income from selling energy back to the grid. Harrison stated he would have to
26 consider it. It would apply to windmills if used in some way that was a business, not for
27 generation of personal power in the home.

28
29 Nelson stated he is concerned about problems with locating windmills. He could
30 argue that someone would complain about a windmill that interferes with the enjoyment of
31 life. He asked if that opens a can of worms. Harrison stated the decibel rating would have
32 relevance in the decision by staff. A small cabinet shop, for instance, would generate more
33 noise from a table saw.

34
35 Nelson stated the language in 20.84.150(9) opens a can of worms. Harrison stated
36 the burden of proof would be on the complainant. They can include language in the WES
37 ordinance that says wind energy systems are not home occupations.

38
39 Nelson stated address that language also in section 20.84.150(9).

40
41 Brenner asked if the State of Washington or Whatcom County requires that anything
42 not in stated in the County Code is prohibited. Harrison stated he believes it to be a County
43 policy. It is stated outright in a number of places in Title 20.

44
45 Crawford stated staff will bring forward a new ordinance with these amendments for
46 introduction on April 30 with a hearing on May 11.

47
48 **3. RESOLUTION AMENDING THE 2010 ANNUAL CONSTRUCTION PROGRAM TO**
49 **INCLUDE POTENTIAL FEDERALLY GRANT FUNDED STRUCTURAL**
50 **REHABILITATION OF VARIOUS COUNTY HIGH VOLUME ROADWAYS**
51 **(AB2010-160)**
52

1 Crawford stated there may be a chance for more stimulus money. There was a
2 considerable amount of discussion with the Technical Advisory Committee to the Council of
3 Governments in terms of prioritization the projects in the various jurisdictions, including
4 Whatcom County. The Council of Governments made a list of priorities, which included
5 projects not on the County's 2010 annual construction program. These projects would only
6 go forward if they receive additional stimulus money.
7

8 Brenner reported for the Public Works and Safety Committee.
9

10 Crawford opened the public hearing and, hearing no one, closed the public hearing.
11

12 ***Brenner moved*** to approve the resolution.
13

14 Knutzen asked if \$15,000 for engineering will be reimbursed by stimulus money, and
15 if that engineering money will expire if the stimulus money doesn't come through.
16

17 Joe Rutan, Public Works Department, stated that's correct. The federal stimulus
18 money only funds construction. The \$15,000 would cover planning and project inspection
19 during construction, which is an engineering cost. The County would not incur that cost or
20 charge anything to this project unless the federal money comes through. In 2010, he will
21 propose the six-year transportation improvement program that includes this project as an
22 unfunded project, in case they receive federal funding in future years.
23

24 Crawford stated they don't know if this will come to the County. It has to go through
25 federal approval and State prioritization, first.
26

27 The motion carried by the following vote:

28 **Ayes:** Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (6)

29 **Nays:** None (0)

30 **Absent:** Nelson (1) (out of the room)
31
32

33 **CONSENT AGENDA** 34

35 ***Mann*** reported for the Finance and Administrative Services Committee and ***moved***
36 to approve Consent Agenda items one, three, and four.
37

38 The motion carried by the following vote:

39 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

40 **Nays:** None (0)
41

- 42 **1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A LEASE**
43 **AGREEMENT WITH DAVID AND SHARON MCCARTHY TO LEASE THE HOUSE**
44 **AT 811 MARINE DRIVE, POINT ROBERTS (AT LIGHTHOUSE MARINE PARK),**
45 **IN THE AMOUNT OF \$975 PER MONTH (AB2010-174)**
46
- 47 **2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #10-15**
48 **FOR ON-CALL CONTRACTOR/EQUIPMENT FOR LABOR AND RENTAL OF**
49 **CONSTRUCTION EQUIPMENT TO ALL BIDDERS, WITH THE INTENT OF**
50 **OBTAINING FIRM PRICING AND TO ENSURE PREVAILING WAGES ARE PAID**
51 **ON ALL ON-CALL PROJECTS, IN AN ANNUAL AMOUNT THAT COULD BE MORE**
52 **THAN \$35,000 FOR A SINGLE VENDOR (AB2010-175)**
53

1 **Mann** reported for the Finance and Administrative Services Committee and **moved**
2 for the Council to approve the request.

3
4 The motion carried by the following vote:

5 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

6 **Nays:** None (0)

7
8 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*
9 *Board of Supervisors.)*

10
11 **Mann moved** for the Flood Control Zone District Board of Supervisors to approve
12 the request.

13
14 The motion carried by the following vote:

15 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

16 **Nays:** None (0)

17
18 3. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #10-16**
19 **FOR ON-CALL RENTAL EQUIPMENT TO ALL BIDDERS, WHEN NEEDED, THE**
20 **COUNTY WILL SELECT FROM THE RENTAL LIST BASED ON EQUIPMENT**
21 **AVAILABILITY AND SUITABILITY WITH PREFERENCE TO LOW BIDDERS, IN**
22 **AN ANNUAL AMOUNT THAT COULD BE MORE THAN \$35,000 FOR A SINGLE**
23 **VENDOR (AB2010-176)**

24
25 4. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #10-22**
26 **FOR THE SUPPLY OF BRIDGE GIRDERS TO LOW BIDDER BELLINGHAM**
27 **MARINE INDUSTRIES FOR THE REPLACEMENT OF THE NOON ROAD TEN**
28 **MILE CREEK BRIDGE #210, IN THE AMOUNT OF \$71,306.22 (AB2010-177)**

29
30
31 **OTHER ITEMS**

32
33 1. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
34 **CONTRACT BETWEEN WHATCOM COUNTY (SHERIFF'S OFFICE DEPARTMENT**
35 **OF EMERGENCY MANAGEMENT) AND SNOHOMISH COUNTY FOR THE**
36 **PURPOSE OF ALLOCATING GRANT FUNDS FROM THE DEPARTMENT OF**
37 **HOMELAND SECURITY TO ENHANCE THE CAPABILITY OF LOCAL UNITS OF**
38 **GOVERNMENT TO PREVENT, DETER, RESPOND TO AND RECOVER FROM**
39 **CATASTROPHIC AND/OR TERRORIST EVENTS IN THE AMOUNT OF \$272,825**
40 **(AB2010-173)**

41
42 **Mann** reported for the Finance and Administrative Services Committee and **moved**
43 to approve the request.

44
45 The motion carried by the following vote:

46 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

47 **Nays:** None (0)

48
49 2. **ORDINANCE AMENDING WHATCOM COUNTY CODE 20.80.210, MINIMUM**
50 **SETBACKS, TO IMPLEMENT A TEN FOOT SETBACK FOR PROPERTIES ALONG**
51 **THE US-CANADA BORDER (AB2010-166)**

1 **Knutzen** reported for the Planning and Development Committee and *moved* to
2 adopt the ordinance.

3
4 The motion carried by the following vote:

5 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

6 **Nays:** None (0)

7
8
9 **PUBLIC HEARINGS**

10
11 **1. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF**
12 **NEW APPLICATIONS FOR WIND ENERGY SYSTEMS (WES) GREATER THAN**
13 **500 KILOWATTS, OR MULTIPLE WES PER PARCEL WITH A CUMULATIVE**
14 **RATED OUTPUT ABOVE 100 KILOWATTS (AB2010-116A)**

15
16 **Crawford** stated that, due to procedural error, the Council must vote to reconsider
17 the ordinance before adopting it. He *moved* to reconsider the ordinance.

18
19 The motion to reconsider carried by the following vote:

20 **Ayes:** Nelson, Crawford, Brenner, Knutzen, Mann and Kershner (6)

21 **Nays:** Weimer (1)

22
23 **Crawford moved** to adopt the ordinance as presented, with his amendment, and
24 without Councilmember Brenner's amendment.

25
26 The motion to amend carried by the following vote:

27 **Ayes:** Nelson, Crawford, Brenner and Knutzen (4)

28 **Nays:** Weimer, Mann and Kershner (3)

29
30
31 **OTHER ITEMS**

32
33 **3. NOMINATION AND APPOINTMENT TO FILL VACANCY ON THE WHATCOM**
34 **COUNTY ADDRESS AND ROAD NAME CITIZEN APPEALS COMMITTEE,**
35 **APPLICANT: ROBERT EWING (AB2010-168)**

36
37 **Nelson moved** to suspend the rules and to nominate and appoint the position
38 during this meeting.

39
40 The motion to suspend the rules carried by the following vote:

41 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

42 **Nays:** None (0)

43
44 **Nelson moved** to appoint Robert Ewing by acclamation.

45
46 The motion to appoint carried by the following vote:

47 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

48 **Nays:** None (0)

49
50 **4. NOMINATION AND APPOINTMENT TO FILL VACANCY ON THE WHATCOM**
51 **COUNTY FLOOD CONTROL ZONE DISTRICT ADVISORY COMMITTEE,**
52 **REPRESENTING IMPACTED CITIES, APPLICANT: JOHN PERRY (AB2010-**
53 **169)**

1
2 (Clerk's Note: Council acting as the Whatcom County Flood Control Zone District
3 Board of Supervisors.)
4

5 **Brenner moved** to appoint John Perry by acclamation.
6

7 The motion carried by the following vote:

8 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

9 **Nays:** None (0)
10

11 **5. RESOLUTION REQUESTING THE EXECUTIVE TO HAVE PROPOSED**
12 **LEGISLATION PREPARED AMENDING THE COMPREHENSIVE PLAN, ZONING**
13 **CODE AND MAPS TO ALTER THE DESIGNATIONS OF VARIOUS URBAN**
14 **GROWN AREAS (AB2010-183)**
15

16 **Mann moved** to approve the resolution. He **moved** to amend the resolution to
17 remove number seven regarding the Bellingham urban growth area (UGA) to add the entire
18 Cordata North/Caitac property. After doing research, it's clear he made a mistake
19 yesterday on all these UGA's. There is no reason to expand any UGA, given the growth
20 rates and trends. Item seven is the only item from yesterday where his vote made any
21 difference, so he wants to change his vote.
22

23 Knutzen stated that for the most part, they are restoring a portion of the UGA's that
24 the Council removed last year, not expanding the UGA's.
25

26 Mann stated the Caitac area was never a UGA.
27

28 Knutzen stated that according to the 2006 Comprehensive Plan, it was a five-year
29 review area. Most all of the other properties were UGA's that were removed.
30

31 Mann stated that technically, the Council is adding these UGA's back.
32

33 Brenner stated they are just making the cuts a little less. Most of the jurisdictions
34 cut back quite a bit. She supports the motion to amend.
35

36 Crawford stated it's time for this area to come into the UGA for a number of reasons.
37

38 Weimer stated he supports the motion to amend. It's an interesting and good
39 project whose time will come. However, the City of Bellingham does not want this now.
40 The time for it is not yet. He supports the wishes of the City of Bellingham.
41

42 Brenner stated leaving this in will set a precedent statewide. They've never forced a
43 UGA on properties. They have an obligation to people in the unincorporated area. By
44 putting a property in the UGA, they are committing the City, not the County. They are
45 committing the people in the area to City standards and other restrictions. Respect the
46 wishes of the City of Bellingham.
47

48 Kershner stated she doesn't understand how the County is forcing this on the City of
49 Bellingham, when it's in the City's Comprehensive Plan. Mayor Pike made a threat to sue.
50 Another direct threat was that Mayor Pike's plan is to make the numbers work so that the
51 Caitac project will never happen. If the County Council doesn't allow this UGA, the project
52 will never be created and they will have lost a tremendous opportunity to develop a 21st
53 Century community of single-family homes that families can afford, housing choices,

1 economic development, outside investment resources, a school, playing fields, and
2 innovative transportation systems. She will not support the motion to amend.
3

4 Mann stated he shares Councilmember Kershner's points. However, in addition to all
5 the other UGA's they're restoring and given the growth and development trends, this UGA is
6 too much. There will be time to bring in the Caitac property, but not too soon. Be cautious,
7 and remove it for now.
8

9 The motion to amend failed by the following vote:

10 **Ayes:** Brenner, Weimer and Mann (3)

11 **Nays:** Nelson, Crawford, Knutzen and Kershner (4)
12

13 **Weimer moved** to amend the resolution to remove number one regarding the
14 Blaine UGA to add the Beachmont, Windward, and Foster properties. The Council didn't talk
15 about these at all last year. They showed up late in the game. They weren't even included
16 in the environmental impact statement. The County is setting itself up for a challenge.
17

18 David Stalheim, Planning and Development Services Director, stated these properties
19 were previously in the UGA, so they were included in the environmental impact statement.
20 There weren't any specific comments that came up about these properties at the Planning
21 Commission. They did have standing, which is why they are a petitioner.
22

23 Weimer stated his motion stands. All three are within critical watersheds. There are
24 many environmental reasons to not move forward with the development. The Blaine city
25 limits are big enough for 20 years of growth.
26

27 The motion to amend failed by the following vote:

28 **Ayes:** Weimer and Mann (2)

29 **Nays:** Brenner, Nelson, Crawford, Knutzen and Kershner (5)
30

31 **Mann moved** to amend the resolution to revise number seven regarding the
32 Bellingham urban growth area (UGA), the entire Cordata North/Caitac property, to the 25
33 percent proposal put forward yesterday, which is the lower fourth of the property as shown
34 on a map submitted yesterday.
35

36 Brenner stated she liked that option better, but it was the first time she'd seen the
37 option. She asked Caitac to scale back the proposal. She didn't have time to talk to the
38 Mayor about it. It's not appropriate to do that at this time without involving the City of
39 Bellingham.
40

41 Nelson asked if Councilmember Mann would support the reduction after the public
42 hearing on this item.
43

44 Mann stated it depends on what he hears at the public hearing. He can't commit to
45 vote to anything before a public hearing.
46

47 Nelson stated he supports a reduction of the Caitac property to see what gets
48 developed on the ground. He supports maintaining Caitac, as it is in the Bellingham
49 Comprehensive Plan. Make sure they have the ability for the City's Comprehensive Plan to
50 come to fruition. The City has not had any hearings on the option to not allow Caitac in the
51 City. The City has not heard from the public about Caitac. He will support having a hearing
52 on reducing this proposal, but is afraid of having it not go forward. Don't use this as a

1 mechanism to make the whole thing go away. He needs a commitment that this project will
2 go to the public at a hearing.

3
4 Mann stated he understands Councilmember Nelson's concern. Yesterday,
5 Councilmember Nelson voted against Caitac altogether. It's not an easy issue. He can't
6 guarantee anything. He would like to see what Caitac would come up with in terms of
7 transfers of development rights (TDR's) and other benefits to the County. Nothing is in
8 writing yet. A benefit of the 25 percent option is to get the ball rolling to see concrete
9 proposals from Caitac.

10
11 Knutzen stated he is impressed by how willing Caitac people are to work with and
12 accommodate all the parties involved. They've submitted a portion of their project to
13 accommodate some people who want proof the development will be done responsibly.
14 They've submitted a TDR program. He's seen no effort from the City of Bellingham to work
15 with Caitac.

16
17 Mann stated the City said it is doing a thorough review of the numbers. The growth
18 and development trends are changing. The Mayor is willing to accommodate the numbers,
19 whatever the numbers say. The Mayor said the City will do Caitac if the numbers can
20 accommodate it. The growth numbers might show that they don't need anything.

21
22 Knutzen stated growth is happening in the county.

23
24 Mann stated the growth number for the county is at half a percent. It's down by half
25 in just two years. He's become convinced that there is no housing shortage, they don't
26 need all these UGA's, and they're making a big mistake by putting them all out there.

27
28 Nelson stated they are supposed to plan for 20 years, not for what happened last
29 year. They're supposed to look at future impacts, which will be severe. They are going to
30 force more people to the rural areas and small cities. No one can find what they need in
31 this community. This is an opportunity to show that this City can provide affordable housing
32 to keep people in urban areas.

33
34 Kershner asked about reserve status. Stalheim stated a UGA reserve is not in a
35 UGA, but it is set up to become a UGA. The City would be the lead planning entity for the
36 reserve area.

37
38 Kershner stated that would not alleviate her concerns about the City of Bellingham
39 wanting to do away with this UGA next year. Stalheim stated he anticipates that the City
40 would come back with a plan to not include that area.

41
42 Mann asked if Councilmember Kershner believes the land capacity, housing needs, or
43 growth needs support inclusion of the entire area.

44
45 Kershner stated that she can be convinced the City will need that area within 20
46 years. She looks also at the economic development the project will bring to the community,
47 which is also a GMA consideration. She's considering a number of factors. In 20 years, this
48 will have been a good decisions. Bellingham doesn't have an available land supply to build
49 many more homes.

50
51 Knutzen stated one of the values to this project is the plan for the entire project.
52 The developer is adhering to all the standards everyone wants, yet the County is still
53 hindering the development. It seems like they are contradicting what they're preaching.

1
2 Crawford stated it seems like an issue of whether they want to stand by a bright-line
3 rule. The bright-line rule concept is heard more at City Hall. This project is one of the best
4 things that can help Bellingham, on par with waterfront redevelopment, in terms of what
5 the community will look like in 20 or more years. The right thing is to include this entire
6 area.
7

8 Mann stated the Bellingham Mayor, who is mayor of the city that holds half the
9 population, seemed offended that the County responded to all the other cities' requests for
10 local control, but not for the City of Bellingham.
11

12 Nelson stated it was a mediation meeting between litigants. The City of Bellingham
13 is not part of that litigation. If the City had that much of a problem, it should have gone
14 through hearings and the same public process the small cities went through.
15

16 Knutzen asked how it was different last year when all the small cities made
17 recommendations that the County neglected, and the City of Bellingham made a
18 recommendation that the County accepted.
19

20 Mann stated if that was wrong then, then it is wrong now.
21

22 Knutzen stated the County is not going against the City's Comprehensive Plan.
23

24 Brenner stated it was wrong then, and is wrong now. She doesn't support Caitac at
25 this time. She asked why the City would be a litigant. The City agreed with the County.
26 There was no reason for the City to be a litigant. The County is in negotiations with the
27 people who are appealing the County's decision. The City didn't appeal.
28

29 Crawford stated this is one of the weightiest land use decisions the County Council
30 will make. He would consider approving Councilmember Mann's idea if they keep the rest of
31 it in some sort of designation or status that keeps the door open to considering the area.
32 There may be some merit to phasing, but Whatcom County has yet to do any kind of large
33 scale planned unit development to demonstrate to this community that shows what good
34 planning can do. Since they started zoning in 1972, the result of many planning efforts has
35 been patchwork. He likes the idea of setting aside a tract large enough to work with the
36 owner on a plan that includes educational facilities, roads, infrastructure, and parks. Do it
37 right from the beginning. Set a path for 20 or 30 years of development that makes sense
38 for all concerns.
39

40 The motion to amend failed by the following vote:

41 **Ayes:** Nelson, Weimer and Mann (3)

42 **Nays:** Brenner, Crawford, Knutzen and Kershner (4)
43

44 Crawford asked if there is another option for a designation other than reserve for the
45 northern portion of the property, if they make the southern portion of the property a UGA.
46 The County is not forcing the City to do anything. The City holds control through utility
47 extension and development standards. If the City were to reject utilities to that
48 development, the development would not happen. Stalheim stated that if such a motion
49 passes, the staff can explore options to include in its staff report.
50

51 **Crawford moved** to amend the resolution to revise number seven regarding the
52 Bellingham urban growth area (UGA), the entire Cordata North/Caitac property, and create

1 a UGA designation for the southern portion, and request a designation of urban growth
2 study area for the remainder.

3
4 **Mann suggested a friendly amendment** to ask staff to come back with a report
5 on all four options: including all of Caitac, including none of Caitac, including only the 25
6 percent proposal, or a solution that includes the 25 percent in the UGA and another
7 designation for the remainder.

8
9 **Crawford accepted** the friendly amendment, with a change. Leave the door open
10 on item seven. He is less interested in the option to not include any of Caitac. He
11 **amended and restated his motion** to amend the resolution to include number seven
12 regarding the Bellingham urban growth area (UGA), the entire Cordata North/Caitac
13 property, with a request for staff to also review of the southern portion option as well as a
14 special designation for the remainder of the parcel. Add the entire Caitac USA/Cordata
15 North property to the list, and request staff to review options for portions thereof.

16
17 The motion to amend failed by the following vote:

18 **Ayes:** Crawford, Knutzen and Mann (3)

19 **Nays:** Brenner, Nelson, Weimer and Kershner (4)

20
21 **Brenner moved** to amend the resolution to revise number seven regarding the
22 Bellingham urban growth area (UGA), the entire Cordata North/Caitac property, to the 25
23 percent proposal put forward yesterday, which is the lower fourth of the property as shown
24 on a map submitted yesterday.

25
26 Nelson stated that if they are going to change this area, make the commitment to
27 change the zoning to rural, two units per acre (R2A), so it can be considered in the future.
28 It already has sewer and water.

29
30 The motion to amend failed by the following vote:

31 **Ayes:** Brenner, Weimer and Mann (3)

32 **Nays:** Nelson, Crawford, Knutzen and Kershner (4)

33
34 Knutzen asked about the status of the Ferndale UGA's.

35
36 Crawford asked if there are any areas they added that weren't in the UGA before the
37 November 24, 2009 vote. The area east of the freeway at Slater Road and the area east of
38 the freeway at Portal Drive were added as UGA reserves. Stalheim stated those areas were
39 not designated UGA's before that vote. They came up with a new, undefined term called
40 provisional. Staff will have to work through that issue. Currently, they are designated rural
41 and are not in the UGA. They aren't asking for full UGA status. They want to go through
42 the planning process to come back at some point in time for designation, which is what the
43 County proposed for UGA reserves.

44
45 **Crawford moved** to add a new item to the list, "8. Blaine UGA – Add West Blaine
46 area to UGA."

47
48 Knutzen stated he wants to look at this area first.

49
50 Kershner stated these votes are just to recommend these things to Planning staff. If
51 this were approved tonight, Councilmember Knutzen still has time to look at the area.

52
53 Brenner stated she can't support it if it's not vested.

1
2 The motion to amend failed by the following vote:

3 **Ayes:** Crawford and Kershner (2)

4 **Nays:** Nelson, Brenner, Weimer and Mann (4)

5 **Abstain:** Knutzen (1)

6
7 **Mann moved** to remove item three, the Ferndale UGA. He asked how they can add
8 Caitac and all these other areas. The County doesn't have that much growth right now.

9
10 Crawford stated he wants to give people housing and lifestyle choices.

11
12 Brenner stated the current boundary is irregular. Industry is nearby. It's supposed
13 to be residential. It doesn't make sense for what is already built there. They don't usually
14 cut the middles out of UGA's that already exist. The high school was built because it was
15 supposed to be a central point, but it's not a central point without that area.

16
17 The motion to amend failed by the following vote:

18 **Ayes:** Weimer and Mann (2)

19 **Nays:** Brenner, Nelson, Crawford, Knutzen and Kershner (5)

20
21 **Knutzen moved** to amend item three, "Restore Vista-Malloy area to UGA status,
22 ~~add provisional UGA areas in north and south in accordance with map provided by the City~~
23 ~~at the conference on April 12, 2010.~~" It's not proper to add anything to their UGA, since
24 they're not restoring UGA to other cities and areas. He agrees with Councilmember Mann.
25 They are adding a lot with Caitac and some other things.

26
27 Brenner stated a provisional UGA isn't the same as a UGA. They will get to look at
28 that area and come forward with reasons why it should be there in the future. She doesn't
29 have a problem with that. They are not changing any UGA in Ferndale by that. The motion
30 doesn't take away any UGA. It takes away the City's ability to look at those areas.

31
32 Weimer stated he supports the amendment. The Ferndale UGA was originally found
33 to be 50 percent too big. Now they're looking at provisionally including more. The City can
34 have that discussion in 2011, so there isn't a reason to add provisional areas now.

35
36 Kershner stated the City stated it needed the northern area to run its water lines.
37 She will not support the motion.

38
39 The motion to amend failed by the following vote:

40 **Ayes:** Knutzen, Weimer and Mann (3)

41 **Nays:** Nelson, Crawford, Brenner and Kershner (4)

42
43 **Crawford restated the motion** to approve the resolution

44
45 **Mann withdrew** his motion to approve the resolution as presented, with no
46 amendments.

47
48 **Crawford moved** to approve the resolution.

49
50 Mann asked how they can do this. It's not a good idea to include all these urban
51 growth areas. People are not moving here. Growth rates are at half a percent. It will
52 remain that way for awhile. There is no way. They are adding too much.

1 Crawford stated they are planning for a 20-year window. They've had an annual
2 average growth rate in Whatcom County of 2.2 percent for the last 20 years. They project
3 a growth rate for the next 20 years of about 1.3 percent. They are doing a poor job of
4 preparing the communities and County for infrastructure and services needed for future
5 growth. Transportation issues are near to his heart. If they don't plan for transportation,
6 they will have a lot of problems in the community.

7
8 Mann stated he shares those concerns. The time to address this comprehensively is
9 in 2011.

10
11 Brenner stated she will vote against the motion. She's in shock about adding that
12 one big area.

13
14 The motion to approve the resolution carried by the following vote:

15 **Ayes:** Nelson, Crawford, Knutzen and Kershner (4)

16 **Nays:** Brenner, Weimer and Mann (3)

17 18 19 **CORRESPONDENCE APPROVAL**

20 21 **1. APPROVAL OF A LETTER TO THE ARMY CORP OF ENGINEERS REGARDING** 22 **PROPOSED CHANGES TO LEVEE VEGETATION POLICIES (AB2010-126)**

23
24 Crawford submitted a substitute version of the letter (*on file*).

25
26 ***Brenner moved*** to approve the substitute version of the letter.

27
28 Knutzen stated the agricultural community is concerned about losing the Corps from
29 helping with projects. Tread lightly.

30
31 Crawford stated they are not opposing the Corps. They are opposing the changes.
32 They appreciate what the Corps does.

33
34 Brenner stated this isn't personal. She's in shock if this happens.

35
36 The motion carried by the following vote:

37 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

38 **Nays:** None (0)

39 40 41 **INTRODUCTION ITEMS**

42
43 Crawford stated Introduction Items one and two have been withdrawn. There is a
44 substitute version of Introduction Item six. He proposed an amendment to Introduction
45 Items eight and nine to add a condition that the Council could shift money between funds, if
46 they can offset the shift, without going to a vote of the people.

47
48 Brenner stated this is an advisory vote.

49
50 ***Kershner moved*** to approve Introduction Items three through nine, including the
51 substitute for item six.

52
53 The motion carried by the following vote:

1 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
2 **Nays:** None (0)
3

- 4 **1. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.02, COUNTY COUNCIL**
5 **(AB2010-143A)**
6
- 7 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.03, BOARDS AND**
8 **COMMISSIONS (AB2010-143B)**
9
- 10 **3. RESOLUTION DECLARING THE WHATCOM COUNTY FLOOD CONTROL ZONE**
11 **DISTRICT'S INTENTION TO LEASE PROPERTY AT 7495 EMMERSON ROAD**
12 **AND AUTHORIZE THE COUNTY EXECUTIVE TO ENTER INTO A LEASE**
13 **AGREEMENT WITH THE HIGHEST RESPONSIBLE BIDDER, SUBJECT TO A**
14 **PUBLIC HEARING (AB2010-178) (Council acting as the Whatcom County Flood**
15 **Control Zone District Board of Supervisors)**
16
- 17 **4. ORDINANCE AMENDING THE 2010 WHATCOM COUNTY BUDGET, NINTH**
18 **REQUEST, IN THE AMOUNT OF \$71,451 (AB2010-179)**
19
- 20 **5. ORDINANCE AMENDING, ON AN INTERIM BASIS WCC 20.84 AND WCC 21.01**
21 **TO ALLOW FOR THE PLANNING AND DEVELOPMENT SERVICES DIRECTOR**
22 **OR WHATCOM COUNTY HEARING EXAMINER TO GRANT A ONE-TIME TWO**
23 **YEAR ECONOMIC HARDSHIP EXTENSION TO ISSUED PLANNED UNIT**
24 **DEVELOPMENTS, CONDITIONAL USE, VARIANCE, ADMINISTRATIVE**
25 **APPROVAL, SHORT SUBDIVISION OR BINDING SITE PLAT, AND CRITICAL**
26 **AREA AND GEOLOGIC ASSESSMENT REPORTS (AB2010-180)**
27
- 28 **6. ORDINANCE AMENDING, ON AN INTERIM BASIS, WHATCOM COUNTY CODE**
29 **10.44, HORSES ON CERTAIN ROADS (AB2010-145A)**
30
- 31 **7. ORDINANCE AMENDING THE 2010 WHATCOM COUNTY PROJECT BUDGET,**
32 **SECOND REQUEST, IN THE AMOUNT OF \$250,000 (AB2010-181)**
33
- 34 **8. ORDINANCE LIMITING TOTAL ANNUAL REAL ESTATE PROPERTY TAX**
35 **INCREASES, INCLUDING THE USE OF BANKED CAPACITY, TO ONE PERCENT**
36 **PER YEAR UNLESS A NON-BINDING ADVISORY BALLOT MEASURE WITH ANY**
37 **PROPOSED ADDITIONAL INCREASES IS PLACED BEFORE WHATCOM COUNTY**
38 **VOTERS (AB2010-182)**
39
- 40 **9. RESOLUTION LIMITING TOTAL ANNUAL REAL ESTATE PROPERTY TAX**
41 **INCREASES FOR THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT,**
42 **INCLUDING THE USE OF BANKED CAPACITY, TO ONE PERCENT PER YEAR**
43 **UNLESS A NON-BINDING ADVISORY BALLOT MEASURE WITH ANY**
44 **PROPOSED ADDITIONAL INCREASES IS PLACED BEFORE WHATCOM COUNTY**
45 **VOTERS (AB2010-182A) (Council acting as the Whatcom County Flood Control**
46 **Zone District Board of Supervisors)**
47
48
49

50 **OTHER BUSINESS**

51
52 There was no other business.
53

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REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

There were no reports or other items from councilmembers.

ADJOURN

The meeting adjourned at 11:38 p.m.

Jill Nixon, Minutes Transcription

Please contact the Council Office to obtain an official, signed copy:
360-676-6690 or council@co.whatcom.wa.us

22 _____
23 Dana Brown-Davis, Council Clerk

Sam Crawford, Council Chair